

# NEW HAMPSHIRE STATE BUILDING CODE REVIEW BOARD

## Minutes of Meeting

May 14, 2004

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### Attendance:

**Robert Clegg, Chairman, Department of Safety**

Tyler Carlisle, Board of Engineers, licensed electrical engineer

Medard Kopczynski, NH Municipal Association

Rick Swain, NH Plumbing & Mechanical Contractors Assoc., mechanical contractor, business

Thomas S Lambert, Chief, NH Association of Fire Chiefs, Municipal Fire

Fred Baybutt, Associated General Contractors, building contractor – non-residential buildings

Joel Fisher, Board of Engineers, licensed structural engineer

Tedd Evans, Board for licensing and regulation of plumbers, licensed master plumber

John Tuttle, NH Home Builders Association, Architectural designer – residential

James Petersen, PE, Board of Engineers, licensed mechanical engineer

Jerry Tepe, Board of Architects, licensed architect

Mark Weissflog, NH Electrical Contractors Business Asso., licensed master electrician

George Maihos, NH Electricians Board, licenses master electrician

Wes Golomb, State energy conservation code office

### Absent/Excused:

Michael Santa, CBO, Governor's Commission on Disability, Architectural barrier/free design

Kenneth Andrews, NH Building Officials Association, municipal building official

Bruce Phillips, NH Association of Fire Chiefs, municipal volunteer fire chief

### Guests:

Marta Modigliani, Attorney, Department of Safety, Office of the Commissioner

J. William Degnan, Acting State Fire Marshal

Bobbie Hantz, Attorney with Gottesman & Hollis in Nashua and is representing Fischer Properties.

Walter Fischer, owner of property in question

### **PUBLIC HEARING:**

#### Pre-Hearing on Case Number SBC-01-04

Chairman Clegg explained that this was the Board's first hearing and to bear with us as we learn.

Chairman Clegg asked each to identify themselves for the record.

J. William Degnan, Acting State Fire Marshal

Bobbie Hantz, Attorney with Gottesman & Hollis in Nashua and is representing Fischer Properties.

Walter Fischer, owner of property in question

Chairman Clegg stated that this was a Pre-Hearing. The Chair asked for a Memorandum of Law on all issues to be filed by both parties, and a list of any other issues that may come before us. I am also asking for written testimony.

We also want to know how many witnesses are coming. The Fire Marshal stated that they would have probably 3.

Bobby stated that they expect to have 1.

Chairman Clegg asked if there was any way that this can be settled without a full hearing. Bobby Hantz said that there probably is. The main dispute is that these units have been operated as duplexes for 30 some odd years, and certainly

they have been kept to Code as duplexes, the dispute here is a classification as “rooming houses” which puts them in a different Code category. She stated that they have said all along that they can make some up-grades that might fall somewhere in-between, but now the dispute is that the Code starts this “rooming house” category at 4 or more people. Fire Marshal said that he will continue to discuss it with Attorney Hantz, but he does not feel that they can.

Chairman Clegg asked if there were any discoveries that needed to be done prior to next month. He told each party that they have 2 weeks to send all their information into the Building Code Board here at Safety. The actual hearing on the subject will be June 11, and will start at 9:30. **CORRECTION:** the actual hearing will be on June 21<sup>st</sup>, not June 11<sup>th</sup>.

**The Hearing on Case Number SBC-01-04 will be heard on Monday, June 21<sup>st</sup>, 2004, at 9:30 am.**

## **GENERAL MEETING:**

### **ADOPTION OF MEETING MINUTES:**

April 26<sup>th</sup> 2004 – Special Meeting, April 9, 2004, March 12, 2004, and February 13, 2004 meetings

Chairman Clegg accepted a **Motion** from George Maihos to accept the meeting minutes. Tyler Carlisle **seconded** the motion. There being no corrections, deletions, additions, or discussion, Chairman Clegg took a vote. Vote was unanimous in favor.

### **OLD BUSINESS:**

Sub-Committee report on the Revisions to Exhibit 12 (PUC Rules 1800)

John Tuttle reported that the Sub-Committee determined that Items A through I were good candidates to become amendments. This was the list that made the most sense. It is the Sub-Committee's recommendation that the Board review the list and determine if these amendments are acceptable.

Med Kopczynski made a **motion** to accept the report of the Sub-Committee, and set this up for a hearing. Wes Golomb **seconded** the motion.

#### **Discussion:**

Tedd Evans – Section B on the Proposed Amendments – with a strikeout with no replacement. Jerry Tepe stated that the intent is to refer them to the PUC Rules which would govern the 1 and 2 family housing. Tedd Evans suggested that the change might be to refer to PUC Rules and local regulations. The changes submitted to the Board are the same changes submitted last month, with some fine-tuning on the wordings.

Tedd Evans - letter I - would like to see the term “**domestic hot water piping**” changed to “**potable hot water piping**”.

The **motion** on the floor is to accept the report and recommendations from the Sub-Committee. Fred Baybutt **seconded** the **motion**. James Petersen asked if ‘accepting’ the report means we received it and its on the record. Chairman Clegg clarified by saying the next motion would be to accept with any changes, and then adopt them as Rules. Chairman Clegg asked for a vote on accepting the Sub-Committee's report. Vote was **unanimous** and so declared.

#### **Questions:**

Tyler Carlisle – questioned paragraph E – 3. It says “existing ceilings, walls, floor cavities exposure during construction, provided these cavities are filled with insulation.” It has been his experience that in older buildings, seldom are those cavities filled with insulation. They may have insulation in them, but “**filled**” is a big word. Wes Golomb stated that the intent is to have people put the most insulation in the walls that is reasonable. Rick Swain asked that the maximum is what the Code requires anyway, but these are exceptions? Wes Golomb answered yes.

Med Kopczynski – question on paragraph E - 4. “Construction where the exiting roof, wall or floor cavity is not exposed.” Was the intention “roof, wall or floor cavities, are not exposed”? Chairman Clegg suggested they be separated, “construction where the existing roof cavity is not exposed, the wall cavity is not exposed, or the floor cavity is not exposed.” Med asked if it was an exception to making it meet the Code when we do not expose the cavity of the

wall? Wes said that according to the Code, we do not need number 4 at all because none of these things trip the Energy Code.

George Maihos asked if this is approved today, what is the next step. Chairman Clegg stated that it gets posted on the state web site people abide by the new Code. Med Kopczynski felt that clarification and understanding of the work product was needed.

James Petersen – question on item I. Whether its necessary or not. What is in item I is an attempt to improve what is in the Energy Code but it already is in the Energy Code. Jerry Tepe agrees with James that this is not necessary, as Wes explained it, there is a Table in there, that some people may have trouble interpreting. Since the State Building Code only deals with commercial buildings most of this will be done by professional engineers. Tedd Evans stated that what is being talked about is all that is not 1 and 2-family, not commercial. Jerry Tepe, by definition under the Energy Code, you are either residential or you are commercial. Wes said that most of his work is not commercial work. If this was taken out of this, could it be included under PUC Rules for non-commercial?

Wes Golomb made a **motion** to pull Item I out of the Revision packet and discuss it separately. Chairman Clegg suggested that we do it all at once. Rick Swain for point of clarification, we are talking about circulating domestic hot water pipes, we are only talking about buildings that have re-circ systems in them, correct? Wes said no, non-circulating. James Petersen with the same intent as Wes, the idea making the Code easier to use, adding this as an Amendment, confuses the Code, where the Code is sufficient. Chairman Clegg asked what was the Boards pleasure on this, to leave it in or take it out. George Maihos **abstained** from voting. Tedd Evans also **abstained** from voting, because the impact is unclear on leaving it in or taking it out. Chairman Clegg made the swaying vote – Item I will remain in.

Chairman Clegg asked about changing **domestic** to **potable**, and was there anyone who objects to that change made. Jerry Tepe objected because it was not the way its worded in the Code. It talks about **service piping** does not talk about **potable**. Tedd Evans said there is confusion in the trade and in the industry when talking about domestic hot water piping. Jerry Tepe said the definition from the Code is: 504.5 – “the purpose of this section is to provide criteria for design and equipment selection that will produce energy savings when applied to **service water heating**” and 804.5 – “**service water** is - supply of hot water for purposes other than comfort heating”. Med Kopczynski made a **motion** to leave the wording as is. Fred Baybutt **seconded** the motion. Vote was in the majority with one against.

Chairman Clegg asked about Section B where “International Residential Code” is a strikeout, be replaced with “PUC Rules, 1800”. Med Kopczynski **moved** that PUC Rules 1800 replace the wording of International Residential Code in Section B. Rick Swain **seconded** the motion. There being no discussion, vote was taken and declared in the affirmative.

James Petersen (?) made the **motion** to accept the sub-committees recommended changes to Item 4 of E, adding the word cavity after group and wall. Med Kopczynski **seconded** the motion. Vote was unanimous and so declared by the Chair.

George Maihos – what about E - 3 with the fill? Is that resolved? Chairman Clegg stated that it had been. Tyler Carlisle made a **motion** to accept the amendments to the International Energy Conservation Code, as shown on Exhibit 12, with the amendments that we have made here. Chairman Clegg accepted a **second** to the motion. James Petersen asked if there were any other options available to extend the process, as he has concerns with leaving Item I in. Chairman Clegg stated that it has already been voted on, however, his objection is duly noted. Vote was taken – all affirmative and so declared.

*Letter to the State Plumbers Licensing Board from the Department of Education*

Chairman Clegg asked for a **Motion** to put this on the table and discuss it at the next meeting. Med Kopczynski made the **Motion** to put this item on the agenda for the next scheduled meeting. Tom Lambert **seconded** the motion. Vote was unanimous.

NEW BUSINESS:

BCR 200 Rules

Marta stated that initially when we drafted the Rules, it was proposed that all appeals of the Fire Marshal's decision, would be a de-novo review, and that you would not have witnesses, you wouldn't have a pre-hearing conference, and so on. It would change to be that, anybody who appealed the Fire Marshal's decision would have a whole new bite at the apple, so they could bring in witnesses and have a full blown hearing before the Board.

Mike Santa thinks its important that the Board hear from both sides of the issue. Just a written statement isn't always the best way to get that through.

Med Kopczynski also agrees with Mike. The citizenry and the State Fire Marshal are owed an opportunity to address the Board and the Board is owed an opportunity to ask questions.

Chairman Clegg asked Marta to fix the Rules so they match. Med Kopczynski made a **motion** to strike Bcr 207.01-2, and then re-number, accordingly. Rick Swain **seconded** the motion. Vote was taken. All was affirmative.

#### IPC 2000

Mike Santa explained that he wants to amend the Plumbing Code, the 2000 IPC, to increase the occupant load from 15 to 50 in cases where you try to determine the number of bathroom facilities required. Currently, if there is mercantile space that the occupant load figures over 15, you are required to have an independent male and female bathroom which would have to be accessible. In mercantile space you figure the occupant load as 1 person per every 30 square feet. The IPC 2003 increased that threshold to 50. He is asking to amend the Plumbing Code to be consistent with the 2003 IPC. Also to consider, increasing occupant load in assembly reference as well, from 15 currently to 25. It is not in the IPC 2003, but rather a document entitled NH Rules for Sanitary Production and Distribution of Food, which is used by Health Officers to approve restaurants where their limit, is 25.

Chairman Clegg asked if the Board wants a Public Hearing on this request. Tedd Evans made the **motion** to schedule a Public Hearing on IPC 2000 amendment proposed by Mike Santa. Motion was **seconded** by Wes Golomb. Vote was unanimous. Public Hearing will be held on August 13, 2004.

#### OTHER BUSINESS:

Committee members agreed to cancel the July 9<sup>th</sup> regularly scheduled meeting.

#### ADJOURNMENT:

**Motion** was made by Tedd Evans to adjourn, motion was **seconded** by John Tuttle. Vote was unanimous and so declared.